

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: JULY 15, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PII*
DIVISION OF LEGAL SERVICES (K. PEÑA) *CB*

RE: DOCKET NO. 990445-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 5267 ISSUED TO PRIDE AMERICA, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 07/27/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990445.RCM

CASE BACKGROUND

- 12/05/97 - This company obtained Florida Public Service Commission IXC Certificate No. 5267.
- 12/10/98 - The Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail.
- 02/01/99 - The RAF payment was due. The Division of Administration's records show that this company had not paid its 1998 RAF, plus statutory penalty and interest charges for the years 1997 and 1998.
- 04/06/99 - Staff received a copy of the Division of Records and Reporting's "Updated Information" request from the company

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which had a handwritten note "Business has closed as of 12/31/98."

- **04/09/99** - Staff wrote the company and explained that as long as regulatory assessment fees are outstanding, staff could not recommend a voluntary cancellation.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Pride America, Inc., a voluntary cancellation of IXC Certificate No. 5267?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should cancel the company's certificate on its own motion with an effective date of 12/31/98. (Isler)

STAFF ANALYSIS: After staff received a note from this company advising that the business was closed on December 31, 1998, staff wrote the company on April 9, 1999, and advised that since the regulatory assessment fees and statutory penalty and interest charges were outstanding, staff could not recommend approval of a voluntary cancellation.

On May 26, 1999, Ms. Nancy Rocks, a representative of Pride America called staff and advised that although the business is closed, the company was "tying up loose ends" and stated that they do not want their certificate canceled. Again, staff explained that the regulatory assessment fees must be paid. Staff was verbally advised that the past due amount would be paid. On May 28, Ms. Rocks called staff and left a voice mail message, which advised that the company had decided to go ahead and cancel its certificate.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30, or the next business day, of the subsequent year for telecommunications

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companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

As of July 8, 1999, the Division of Administration's records do not show payment of the past due amount. Accordingly, the Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should cancel the company's certificate on its own motion with an effective date of 12/31/98.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. (K. Peña)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.